

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

JOSHUA SPRIESTERSBACH,) Case No.: 1:21-cv-00456
) LEK-RT
Plaintiff,)
)
vs.) Volume I
) (Pages 1 - 214)
STATE OF HAWAI'I, CITY)
AND COUNTY OF HONOLULU,)
DEPARTMENT OF PUBLIC)
SAFETY, OFFICE OF THE)
PUBLIC DEFENDER, NIETZSCHE)
LYNN TOLAN, MICHELLE)
MURAOKA, LESLEY MALOIAN,)
JASON BAKER, SETH PATEK,)
DR. JOHN COMPTON, DR.)
MELISSA VARGO, DR. SHARON)
TISZA, HAWAI'I STATE)
HOSPITAL, DR. ALLISON)
GARRETT, and JOHN/JANE)
DOES 1-20,)
Defendants.)
_____)

VIDEOTAPED DEPOSITION OF JOSHUA SPRIESTERSBACH

taken on behalf of the Defendants Office of the
Public Defender; Jason Baker; Lesley Maloian; Michele
Muraoka; Seth Patek; and Nietzsche Lynn Tolan at the
Department of the Attorney General, 425 Queen Street,
Honolulu, Hawaii 96813, commencing at 9:39 a.m. on
Monday, December 4, 2023, pursuant to Notice.

BEFORE: Lynn Nishimura, CSR NO. 273

1 APPEARANCES:

2 For the Plaintiff ALPHONSE A. GERHARDSTEIN, ESQ.
3 Joshua Spriestersbach: Friedman, Gilbert + Gerhardstein
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4 Cincinnati, Ohio 45202

5 JENNIFER L. BROWN, ESQ.
6 Hawaii Innocence Project
P.O. Box 8415
Honolulu, Hawaii 96830

7 For the Defendants JUSTINE HURA, ESQ.
8 Office of the Public Deputy Attorney General
Defender, Jason Baker, Department of the Attorney
9 Lesley Maloian, General, State of Hawaii
Michele Muraoka, Seth 425 Queen Street
10 Patek, and Nietzsche Honolulu, Hawaii 96813
Lynn Tolan:

11
12 For the Defendant RICHARD D. LEWALLEN, ESQ.
13 City and County of PAUL S. AOKI, ESQ. (via Zoom)
Honolulu: Deputies Corporation Counsel
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16 For the Defendant LOIS H. YAMAGUCHI, ESQ.
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19
20 For the Defendants KENDALL J. MOSER, ESQ.
21 State of Hawaii, Deputy Attorney General
Department of Public Department of the Attorney
22 Safety, and Hawaii General, State of Hawaii
State Hospital: 425 Queen Street
Honolulu, Hawaii 96813

23 Also Present: Alan Nielsen, Certified Legal
24 Video Services
25

1 A. Right to remain silent until banded. Thomas
2 Castleberry. And then I gave my name, birth date, and
3 Social Security number.

4 Q. Okay. All right. Have you ever given anyone
5 the name Thomas Castleberry?

6 A. No.

7 Q. Have you ever answered to the name Thomas
8 Castleberry?

9 A. Once I was banded, that's all I could do.

10 Q. So is that a yes?

11 A. Well, it's a no. I resisted it and kept
12 insisting that they change my name to Joshua Charles
13 Castleberry cause I had to use my birth -- I knew what I
14 had to do. I had to go back to my birth certificate and
15 establish my identity. And so I kept protesting it, but
16 they kept using the banded ID. And so...

17 I wasn't someone who would respond to it. I was
18 trying not to respond to it. And so I'm not an eager
19 participant responding to it. I'm someone resisting it
20 the whole way, and I eventually got it changed.

21 Q. Okay. So in short, is it your testimony that
22 you have never answered to the name Thomas Castleberry?

23 A. Yes.

24 Q. Not ever to police?

25 A. Yes.

1 A. No.

2 Q. Have you ever answered or positively identified
3 with the first name Tom?

4 A. No.

5 Q. And just to double-check. Any attorney from the
6 Office of the Public Defender, have you ever answered to
7 any of them when referred to as Tom?

8 A. No.

9 Q. Okay. You mentioned that you kept protesting
10 the Thomas Castleberry name.

11 A. Yes.

12 Q. Please tell me who and when you protested being
13 called Thomas Castleberry.

14 A. In a -- any guard that would listen I would try
15 it with to have the band changed. But once they told me
16 that they couldn't do anything about it, I would, of
17 course, respond when they called Thomas Castleberry.
18 But not because I was accepting the identity Thomas
19 Castleberry. They couldn't do anything about it they
20 said. And so I was someone who checked each step along
21 the way.

22 Q. Let me just interrupt for one minute. You said
23 "guard".

24 A. Yeah.

25 Q. Which -- where? At what facilities?

1 A. At the police -- when they banded me at the
2 police department, I did it right away. When they
3 transferred me to OCCC, I did it there too. When they
4 took me to Hawaii State Hospital, I did it there. And
5 they made me a badge that said Joshua Spriestersbach.

6 Q. At Hawaii State Hospital?

7 A. Yes.

8 Q. Okay. What about with the public defender, do
9 you recall having contact with the public defender in
10 2017 or 2018?

11 A. Yes. Talking through the window, I told him
12 that I was not Thomas Castleberry.

13 Q. Who did you tell?

14 A. I don't remember their name.

15 Q. Okay. But do you recall whether this person was
16 male or female?

17 A. No.

18 Q. Do you recall when?

19 A. No.

20 Q. Do you recall what race or ethnicity this --

21 A. No.

22 Q. -- person was?

23 A. No.

24 Q. Do you recall if it was one person or two
25 people?

1 when you were arrested?

2 A. No.

3 Q. Okay. Did getting arrested in 2017 affect that
4 work?

5 A. I don't know. Not to the best of my knowledge.
6 I don't know.

7 Q. Okay. From 2009 till 2017, prior to your arrest
8 as Thomas Castleberry, how did -- how was your home
9 life?

10 A. I'm sorry, what dates again?

11 Q. Between 2009 and 2017.

12 A. Uh-huh.

13 Q. How was your home life?

14 A. I was homeless.

15 Q. Okay. And is it your description still that
16 that time period can be characterized as hard?

17 A. Yeah, it's hard.

18 Q. Was life in Hawaii State Hospital easier than
19 your houseless life from 2009 to 2017?

20 A. In some ways, yes. But no, not really.
21 Involuntary incarceration can't be considered something
22 that's easy.

23 Q. Okay. Tell me what's hard about it.

24 A. It's involuntary incarceration. And you can't
25 leave a confined area that could be described about the

1 Q. And so that's what you understood you were being
2 arrested for?

3 A. I think so. I think I understood I was being
4 arrested for sitting on the sidewalk.

5 Q. And nothing to do with a warrant, an outstanding
6 warrant?

7 A. No.

8 Q. And can you recall everything that the officer
9 said to you when you were there on the streets right
10 before you were arrested?

11 A. No. I was asleep.

12 Q. Okay. So even after you got up, though, you
13 don't remember anything that he said to you?

14 A. No.

15 Q. Do you recall if he asked you for any sort of
16 identification?

17 A. I didn't have any identification and I was tired
18 and I asked for the right to remain silent.

19 Q. That's not what I'm asking. I'm asking you did
20 he ask you for any identification?

21 A. I don't recall.

22 Q. Okay, so you don't recall him asking you what
23 your name was?

24 A. I recall him saying that.

25 Q. Asking you what your name was?

1 A. Yes.

2 Q. Do you recall what you replied?

3 A. I replied I have the right to remain silent.

4 Q. So you declined to provide him with a name.

5 A. Yes.

6 Q. Okay. Did the officer tell you -- give you a
7 speech telling you for what he was arresting you?

8 A. No, he didn't give me a speech.

9 Q. Did he tell you, simply tell you, you're being
10 arrested for an outstanding warrant?

11 A. No.

12 Q. Did he ask you if your name was Castleberry?

13 A. No.

14 Q. Did you tell him that your name was Castleberry?

15 A. No.

16 Q. Did you tell him your name was Joshua
17 Spriestersbach?

18 A. No. Not -- no, no.

19 That's at the scene?

20 Q. Yes.

21 A. No.

22 Q. Okay. So the best of your recollection, you
23 really didn't say anything to Officer Bruhn?

24 A. I was tired.

25 Q. Okay. What happened after he told you that you

1 Q. Okay. So you're in the back and he's driving?

2 A. Yes.

3 Q. Did he have another officer in the vehicle with
4 him?

5 A. No.

6 Q. And where did he take you?

7 A. To HPD.

8 Q. And how long of a ride was that, do you recall?

9 A. It's very close to Chinatown. It couldn't have
10 been more than five minutes away.

11 Q. Okay. And do you recall what he was asking you
12 during the trip?

13 A. No. I don't remember much after. We both
14 agreed that I wasn't going to give him -- I was going to
15 insist on my right to remain silent and he was going to
16 be angry.

17 Q. So are you saying all he did was ask you what
18 your name was and you declined to tell it?

19 A. Yeah.

20 Q. Okay.

21 A. I wanted my rights.

22 Q. And once you got to the police station, where
23 did he take you next?

24 A. To booking area.

25 Q. And what can you recall as we sit here right now

1 about going to the booking area that day?

2 A. Mostly it's the band went on. It said Thomas R.
3 Castleberry. And that's when I gave them my name, birth
4 date, and Social Security number.

5 Q. Okay. When you first got there inside the
6 booking area, were there other people in the booking
7 area?

8 A. Yes.

9 Q. Were there other officers?

10 A. Yes.

11 Q. And did you deal with Officer Bruhn or the other
12 officers in the booking area?

13 A. I don't know who I told, but it was whoever's
14 there in the booking area with the band on.

15 Q. So you chose not to remain silent once you got
16 to the booking area and then you decided to attempt to
17 identify yourself?

18 A. As soon as I was incorrectly banded, I told them
19 exactly what the fingerprints are going to come up with.
20 They're going to come up with Joshua Spriestersbach,
21 they're going to come up with [REDACTED]/1971, and they're
22 going to come up with [REDACTED]-4632.

23 Q. And you told that to whoever was handling you in
24 the booking area?

25 A. I began telling that to whoever would listen.

1 Q. Okay. And was that based upon an earlier arrest
2 that you had had by HPD involving a warrant?

3 A. No. That's based upon the process of
4 establishing identity that -- as I understand it.

5 Q. You had been arrested in around 2010, 2011
6 for... You were thought to be Thomas Castleberry and
7 subject to his arrest warrant?

8 A. I don't remember that.

9 Q. You don't remember that. Okay.

10 Other than telling the booking officer after you
11 were banded -- and I take that when you say "banded,"
12 that's when you had a band that --

13 A. Yeah.

14 Q. -- said Thomas Castleberry on it?

15 A. Yeah.

16 Q. That's what motivated you to try to clear up the
17 air about who you actually were?

18 A. Yeah.

19 Q. Okay. So you told the booking officer this; is
20 that correct?

21 A. Yes.

22 Q. You never told Officer Bruhn anything about
23 that, though, is that correct, about your actual
24 identity?

25 A. I think he's still there.

1 Q. He's still there? Was he present when you were
2 telling it?

3 A. I think he's still there, yeah.

4 Q. When you say "there," you mean in the booking
5 area?

6 A. Yeah.

7 Q. Or right where you were in the booking area?

8 A. It's so small, I think he's right there where I
9 am.

10 Q. So that's the first time, then, to your
11 recollection that you tried to identify yourself as
12 Joshua Spriestersbach; right?

13 A. Yeah.

14 Q. And what happened when you gave that
15 information?

16 A. They weren't going to -- they weren't going to
17 un-band it. Or un-band me.

18 Q. And after that, after you were booked into jail,
19 where did they keep you?

20 A. They kept me in a cell until I was transferred
21 to OCCC.

22 Q. Okay. How long was that that you were kept in
23 there?

24 A. I don't recall. It wasn't all night. And so it
25 couldn't have been more than 12 hours.